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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  ADRIA H.,

12                  Plaintiff,

13                  v.

14                  COMMISSIONER OF SOCIAL  
15                  SECURITY,

16                  Defendant.

17                  CASE NO. 2:21-cv-00899-JRC

18                  ORDER ON PLAINTIFF'S  
19                  COMPLAINT

20                  This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local  
21 Magistrate Judge Rule MJR 13. *See also* Consent to Proceed Before a United States Magistrate  
22 Judge, Dkt. 3. This matter has been fully briefed. *See* Dkts. 16, 18, 19.

23                  Plaintiff first filed her claim for benefits on August 12, 2010, and her case has been  
24 making its way through four administrative hearings and two district court filings, all of which  
resulted in a remand to the Administration for further proceedings. Now, over 11 years later,  
plaintiff appears before this court again, appealing a fourth ALJ decision denying benefits.

1 Plaintiff is seeking an award of benefits because of the ALJ’s errors in evaluating her claim. The  
2 Court agrees that the ALJ committed harmful error. It is time for the Administration to award  
3 her benefits.

4 Plaintiff, who alleges that she is disabled due to physical and mental impairments,  
5 including depression and dissociative identity disorder, challenges the Administrative Law  
6 Judge’s (“ALJ”) evaluation of three examining physicians’ opinions.

7 The Court concludes that the ALJ erred when he rejected Drs. Walker, Uhl, and Gordin’s  
8 opinions regarding the impact of plaintiff’s mental health conditions and symptoms—including  
9 mood symptoms and hearing screaming voices in her head—on her abilities to perform work  
10 activities. In rejecting these opinions, the ALJ wrongfully discounted the examining doctors’  
11 objective clinical findings, as well as other evidence in the record, that support the doctors’  
12 opined limitations that plaintiff would be significantly limited in her abilities to complete a  
13 normal workday and workweek without interruptions from her symptoms, among other  
14 limitations.

15 Crediting these examining physicians’ opinions as true, the ALJ would be required to  
16 find plaintiff disabled on remand. Therefore, remanding this case for the ALJ to reevaluate the  
17 evidence would serve no useful purpose. Accordingly, remand for award of benefits is the  
18 appropriate remedy.

#### 19 PROCEDURAL HISTORY

20 This case has a lengthy procedural history, which includes four written decisions by two  
21 ALJs and two prior reviews by this Court. Plaintiff’s applications for disability insurance  
22 benefits (“DIB”) pursuant to 42 U.S.C. § 423 (Title II) and Supplemental Security Income  
23 (“SSI”) benefits pursuant to 42 U.S.C. § 1382(a) (Title XVI) of the Social Security Act were  
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1 denied initially and following reconsideration. *See* AR 2043 (noting that plaintiff later withdrew  
 2 her claim for Title II benefits). Plaintiff's requested hearing was held before ALJ Cheri Filion on  
 3 May 22, 2012. *See id.* On August 30, 2012, ALJ Filion issued a written decision in which she  
 4 concluded that plaintiff was not disabled pursuant to the Social Security Act. *See* AR 2043; *see*  
 5 *also* AR 11–38.

6 On January 4, 2013, the Appeals Council denied plaintiff's request for review (AR 1),  
 7 and plaintiff subsequently filed a complaint in this Court in January 2013 seeking judicial review  
 8 of ALJ Filion's written decision. *See Holub v. Colvin*, Case No. 2:13-cv-00159-JPD, Dkt. 3  
 9 (W.D. Wash. Jan. 29, 2013). On August 29, 2013, the Court reversed ALJ Filion's decision and  
 10 remanded the case because ALJ Filion and the Appeals Council erred in their evaluation of  
 11 medical opinion evidence. *See* AR 1283–92. On October 21, 2013, the Appeals Council issued  
 12 an order vacating ALJ Filion's decision and remanding the case for further proceedings  
 13 consistent with the Court's order. *See* AR 1300–1301.

14 On remand, ALJ Filion held a second hearing with plaintiff on June 12, 2014. *See* AR  
 15 1181. On March 5, 2015, ALJ Filion issued another written decision in which she again  
 16 concluded that plaintiff was not disabled pursuant to the Social Security Act. *See* AR 1181–96.  
 17 Plaintiff then filed a second complaint in this Court in May 2015 seeking judicial review of ALJ  
 18 Filion's second written decision. *See Holub v. Colvin*, 2:15-cv-00706-RBL, Dkt. 4 (W.D. Wash.  
 19 May 8, 2015). On February 9, 2016, the Court again reversed ALJ Filion's second decision and  
 20 remanded the case because the ALJ erred in her evaluation of medical opinion evidence. *See* AR  
 21 2237–48. The Appeals Council subsequently issued another order vacating ALJ Filion's  
 22 decision and remanding the case to another ALJ. *See* AR 2254–55.

1 On May 16, 2018, plaintiff appeared before ALJ M.J. Adams for a third hearing. *See AR*  
2 2265. On September 4, 2018, ALJ Adams issued a written decision, in which he concluded that  
3 plaintiff was not disabled pursuant to the Social Security Act. *See AR 2264–89.* Plaintiff sought  
4 review of ALJ Adam’s decision, and on February 28, 2020, the Appeals Council issued an order  
5 vacating yet another ALJ’s decision and remanding the matter back to ALJ Adams to consider  
6 new medical opinion evidence and to reevaluate plaintiff’s residual functional capacity. *See AR*  
7 2306–2307.

8 On April 27, 2021, ALJ Adams held a fourth hearing with plaintiff. *See AR 2043.* On  
9 May 6, 2021, ALJ Adams issued another written decision, which is now before the Court, and  
10 ALJ Adams again concluded that plaintiff is not disabled pursuant to the Social Security Act.  
11 *See AR 2043–2071.*

12 Neither party sought review by the Appeals Council. *See Dkt. 6, at 2.* After expiration of  
13 60 days, the ALJ’s decision became the final agency decision subject to judicial review. *See id.*;  
14 20 C.F.R. § 404.981. Plaintiff filed a complaint in this Court seeking judicial review of ALJ  
15 Adam’s written decision in July 2021. *See Dkts. 1,6.* Defendant filed the sealed administrative  
16 record (“AR”) regarding this matter on September 20, 2021. *See Dkts. 10, 11.*

17 **BACKGROUND**

18 Plaintiff, Adria H., was born in 1983 and was 26 years old on the alleged date of  
19 disability onset of August 12, 2010. *See AR 2044, 2070.* Plaintiff completed her Master’s  
20 degree in 2008, and her work history includes employment as an editor, research assistant, and  
21 teaching assistant. *See AR 47–49.* Plaintiff states that she stopped working due to her  
22 conditions. *See AR 48.*

According to the ALJ, plaintiff has at least the severe impairments of bilateral upper extremity conditions, early cervical degenerative disc disease, major depressive disorder, dissociative identity disorder, somatic symptoms disorder, and personality disorder. AR 2046–47.

## **STANDARD OF REVIEW**

Pursuant to 42 U.S.C. § 405(g), this Court may set aside the Commissioner's denial of social security benefits if the ALJ's findings are based on legal error or not supported by substantial evidence in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 n. 1 (9th Cir. 2005) (citing *Tidwell v. Apfel*, 161 F.3d 599, 601 (9th Cir. 1999)).

## DISCUSSION

11 Plaintiff argues that the ALJ erred in discounting the opinions of three examining doctors,  
12 Drs. Walker, Uhl, and Gordin. *See* Dkt. 16, at 22–25. Finding this issue dispositive, the Court  
13 does not address plaintiff’s remaining arguments.

## I. Examining Doctors' Opinions

15 From 2015 to 2019, three Washington State Department of Social and Health Services  
16 (“DSHS”) physicians examined plaintiff on four occasions, each rendering a written evaluation  
17 regarding plaintiff’s mental impairment diagnoses, functional limitations, examination  
18 observations, clinical interview notes, and mental status examination (“MSE”) findings. *See* AR  
19 2703–12, 2730–33, 3037–42, 4397–4401. Each of the DSHS examining doctors opined that  
20 plaintiff would have a number of marked to severe functional limitations that would impact her  
21 ability to perform work activities, as summarized below. *See id.*

In January 2015, W. Douglas Uhl, Psy.D. examined plaintiff and diagnosed her with posttraumatic stress disorder (“PTSD”), psychotic disorder, and dissociative disorder. AR 2704.

1 Based on intensity and pervasiveness of all symptoms—including hearing voices in her head—  
2 and impairment of functioning, Dr. Uhl opined that plaintiff is severely limited in her abilities to  
3 adapt to changes in a routine work setting and to communicate and perform effectively in a work  
4 setting. AR 2705. Dr. Uhl further opined that plaintiff is markedly limited in a number of  
5 functional activities, including her abilities to complete a normal workday and workweek  
6 without interruptions from her symptoms and to maintain appropriate behavior in the workplace.

7 *Id.*

8 In July 2015, Mendel Gordin, M.D. examined plaintiff and diagnosed her with PTSD,  
9 schizoaffective disorder, major depression disorder, anxiety disorder, and pain disorder  
10 associated with psychological factors. AR 2731. Based on the severity of her symptoms—  
11 hearing screaming voices and anxiety—Dr. Uhl opined that plaintiff would have a number of  
12 severe and marked work-related functional limitations, including that plaintiff would be severely  
13 limited in her abilities to follow even short and simple instructions and to complete a normal  
14 workday and workweek without interruptions from her symptoms. AR 2732.

15 In May 2017, Ellen L. Walker, Ph.D. examined plaintiff and diagnosed her with  
16 dissociative identity disorder and schizoaffective disorder. AR 3038. Based on the severity of  
17 plaintiff's symptoms—hearing screaming voices, anxiety, and depressed mood—Dr. Walker  
18 opined that plaintiff would have a number of marked functional limitations, including that  
19 plaintiff would be markedly limited in her ability to complete a normal workday and workweek  
20 without interruptions from her symptoms. AR 3038–39.

21 In February 2019, Dr. Walker examined plaintiff a second time and again diagnosed her  
22 with dissociative identity disorder and schizoaffective disorder. Dr. Walker again opined that  
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1 plaintiff would have a number of marked functional limitations and that based on the combined  
 2 impact of her impairments, plaintiff's overall severity rating is "marked." AR 4398–99.

3 Examining Drs. Uhl, Gordin, and Walker's opinions that plaintiff would have a number  
 4 of work-related limitations potentially consistent with a finding of disability are contradicted, for  
 5 the most part, by State agency reviewing physicians, who opined in 2015 and 2016 that plaintiff  
 6 would have at most moderate functional limitations related to her mental impairments. *See* AR  
 7 2212–14, 2230–32. When an examining physician's opinion is contradicted, the opinion can be  
 8 rejected "for specific and legitimate reasons that are supported by substantial evidence in the  
 9 record." *Lester v. Chater*, 81 F.3d 821, 830–31 (citations omitted).<sup>1</sup> Therefore, the Court  
 10 reviews the ALJ's decision for whether he gave specific, legitimate reasons supported by  
 11 substantial evidence to reject Drs. Uhl, Gordin, and Walker's opinions. *See id.*

12 The ALJ collectively assigned "less weight" (AR 2059) and essentially rejected the  
 13 examining physicians' opinions because: (1) the doctors did not provide sufficient rationale for  
 14 the assessed limitations; (2) the doctors' opined "extreme" limitations are inconsistent with  
 15 plaintiff's "normal presentation" throughout the medical record; (3) the doctors did not consider  
 16 plaintiff's daily activities; (4) the doctors did not consider inconsistencies in plaintiff's report of  
 17 symptoms and limitations; (5) the doctors made a finding of disability reserved to the  
 18 Commissioner; and (6) Dr. Walker's 2019 assessment of marked limitations is inconsistent with  
 19 "generally normal" MSE findings. AR 2060–61.

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 22 <sup>1</sup> The Administration has amended regulations for evaluating medical evidence, but the  
 23 amended regulations apply only to claims filed on or after March 27, 2017 and therefore are not  
 24 relevant to this case. *See* 20 C.F.R. §§ 404.1527, 416.927 (applicable to claims filed before  
 March 27, 2017); 20 C.F.R. §§ 404.1520c, 416.920c (applicable to claims filed after March 27,  
 2017).

1       Regarding the first reason for rejecting the examining doctors' opinions, the ALJ found  
2 that the doctors did not provide sufficient rationale for each of the assessed limitations. *See AR*  
3 2060. Although an ALJ may disregard a physician's opinion if that opinion is inadequately  
4 supported by clinical findings or by the record as a whole, substantial evidence does not support  
5 the ALJ's rejection of the examining doctors' opinions on this basis. *See Batson v. Comm'r of*  
6 *Soc. Sec. Admin.*, 359 F.3d 1190, 1195 (9th Cir. 2004) (citation omitted).

7       In this case, each of the examining doctors extensively documented their findings,  
8 including plaintiff's clinical interview, symptoms, diagnoses, limitations, and MSE findings. *See*  
9 AR 2703–12, 2730–33, 3037–41, 4397–4401. That the examining doctors did not write the  
10 specific bases for each limitation next to that limitation is not a rationale reason to reject the  
11 opinions. For instance, each doctor noted abnormalities in plaintiff's mood and affect. *See AR*  
12 2706 (despondent mood and labile affect), AR 2733 (anxious and dysphoric mood and restricted  
13 affect), AR 3040 (anxious mood and affect), AR 4400 (anxious and depressed mood and affect).  
14 Further, each doctor noted abnormalities in plaintiff's thought process, perception, memory,  
15 concentration, and judgment during the MSEs. *See AR* 2707 (noting disordered thought and  
16 voices in head), AR 2733 (noting abnormal thought process, perception, and concentration due to  
17 anxiety and "screaming chorus" of voices in head), AR 3041, 4401 (noting significant difficulty  
18 in memory and concentration due to psychosis, anxiety, and depression). These findings provide  
19 rationale for Drs. Uhl, Gordin, and Walker's opinions. Therefore, the ALJ's conclusion that the  
20 doctors did not sufficiently explain each assessed limitation is not supported by substantial  
21 evidence. *See Kuczi v. Berryhill*, No. C16-1139-TSZ-JPD, 2017 WL 2304032, at \*7 (W.D.  
22 Wash. Apr. 26, 2017) (rejecting a similar argument where the doctor "thoroughly completed  
23 every portion of the DSHS form, which does not include space under each limitation to provide a  
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1 narrative explanation.”); *Dukes v. Astrue*, No. C10-1812-RAJ-BAT, 2011 WL 2292356, at \*3  
 2 (W.D. Wash. May 23, 2011) (“While the doctor’s explanation of his opinion is skimpy, as is  
 3 typical of virtually all evaluations using the DSHS form, this is not a situation in which the  
 4 doctor rendered a conclusory opinion, and nothing more.”).

5 Regarding the ALJ’s second reason, the ALJ concluded that the examining doctors’  
 6 opined “extreme” limitations were inconsistent with plaintiff’s typically “normal presentation” in  
 7 the overall medical record. AR 2060. In support of this finding, the ALJ referenced his  
 8 discussion of plaintiff’s symptom testimony earlier in the written decision. *See id.* (“discussed  
 9 above at finding #4”). An ALJ may reject an examining physician’s medical opinion based on  
 10 inconsistencies in the medical record. *See* 20 C.F.R. § 416.927(c)(4); *Tommasetti v. Astrue*, 533  
 11 F.3d 1035, 1041 (9th Cir. 2009). However, when an ALJ seeks to discredit a medical opinion,  
 12 he must explain why his own interpretations, rather than those of the doctor, are correct. *Reddick*  
 13 *v. Chater*, 157 F.3d 715, 725 (9th Cir. 1998) (citing *Embrey v. Bowen*, 849 F.2d 418, 421–22  
 14 (9th Cir. 1988)).

15 As an initial matter, the ALJ’s general reference to his prior findings regarding plaintiff’s  
 16 symptom testimony is not a sufficient explanation as to why the examining doctors’ opinions  
 17 should be discredited. *See Reddick*, 157 F.3d at 725; *see also Blakes v. Barnhart*, 331 F.3d 565,  
 18 569 (7th Cir. 2003) (“We require the ALJ to build an accurate and logical bridge from the  
 19 evidence to her conclusions so that we may afford the claimant meaningful review of the SSA’s  
 20 ultimate findings.”).

21 Further, even reviewing the prior discussion of plaintiff’s symptom testimony, the ALJ  
 22 appears to have mischaracterized records reflecting plaintiff’s presentation. For example,  
 23 although the ALJ cited to records apparently showing plaintiff’s “normal” presentation (AR  
 24

1 2060), many of the cited records reflect that plaintiff's mood and affect were anxious, depressed,  
2 flat, and/or restricted. *See, e.g.*, AR 1130, 1551–52, 2706–2707, 2752, 2936, 2996, 5278, 5354,  
3 5356. Additionally, other records cited by the ALJ reflect that plaintiff was alert, cooperative,  
4 and in no distress in the context of *physical* examinations—not *mental* health examinations. *See,*  
5 *e.g.*, AR 2949, 3424–25, 3482, 3484, 3804, 3806, 3809, 3830, 3982, 4390, 4405, 4425. Drs. Uhl  
6 and Walker also noted that plaintiff was alert, oriented, and cooperative, despite a number of  
7 other observed abnormalities in plaintiff's mental functioning. *See* AR 2706–2707 (noting  
8 positive attitude and oriented), AR 3040, 4400 (noting cooperative and oriented); *see also* AR  
9 756, 849, 864, 944, 2936 (additional records noting restricted, anxious, and flat mood and/or  
10 affect, among other abnormalities). Without more explanation, it is unclear to the Court how the  
11 ALJ's cited records are inconsistent with the examining doctors' opinions. *See Reddick*, 157  
12 F.3d at 725. Thus, the ALJ's conclusion—that plaintiff's generally “normal” presentation is  
13 inconsistent with examining doctors' opined limitations—is not supported by substantial  
14 evidence.

15 As for the ALJ's third reason, the ALJ found that the examining doctors failed to  
16 consider evidence of plaintiff's activities. AR 2060. However, it appears that the examining  
17 doctors did consider plaintiff's reported activities. *See* AR 2703–2704, 2730, 3037–38, 4397–98  
18 (noting hobbies, chores, self-care, social interactions, and other activities). Further, to the extent  
19 that the ALJ concluded that the doctors' opinions are inconsistent with plaintiff's daily activities,  
20 the ALJ failed to specify or explain any such conflict. *See* AR 2060; *Reddick*, 157 F.3d at 725.  
21 Such a vague finding is insufficiently specific to justify rejecting Drs. Uhl, Gordin, and Walker's  
22 opinions. *See Embrey*, 849 F.2d at 421–22.

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1       Regarding the ALJ’s fourth reason, the ALJ concluded—without explanation—that the  
2 examining doctors failed to consider inconsistencies in plaintiff’s self-reported symptoms and  
3 limitations. *See* AR 2060 (again, generally referencing his prior discussion of plaintiff’s  
4 symptom testimony). As stated above, the ALJ’s general reference to plaintiff’s symptom  
5 testimony is not a sufficient explanation as to why the examining doctors’ opinions should be  
6 discredited. *See Reddick*, 157 F.3d at 725; *see also Blakes*, 331 F.3d at 569. Further, to the  
7 extent that the ALJ concluded that the examining doctors relied too heavily on plaintiff’s self-  
8 reports, the ALJ’s conclusion is not supported by substantial evidence. As discussed above, each  
9 of the examining doctors’ opinions is accompanied by objective MSE findings and clinical  
10 observations. *See* AR 2703–12, 2730–33, 3037–41, 4397–4401; *see also* Paula T. Trzepacz and  
11 Robert W. Baker, *The Psychiatric Mental Status Examination 4* (Oxford University Press 1993)  
12 (“Like the physical examination, the Mental Status Examination is termed the *objective* portion  
13 of the patient evaluation.”). Because the examining doctors’ opinions include MSE findings and  
14 clinical observations, as well as plaintiff’s self-reports, there is no basis for the conclusion that  
15 these opinions were based more heavily on plaintiff’s self-reports. *See Ghanim v. Colvin*, 763  
16 F.3d 1154, 1162 (9th Cir. 2014) (“[W]hen an opinion is not more heavily based on a patient’s  
17 self-reports than on clinical observations, there is no evidentiary basis for rejecting the  
18 opinion.”).

19       Next, the ALJ concluded that the examining doctors’ assessed limitation—that plaintiff  
20 would be limited in completing a normal workday and workweek—is a legal conclusion reserved  
21 to the Commissioner. AR 2060 (citing 20 C.F.R. §§ 404.1527([d])(1), 416.927([d])(1)). Here,  
22 the ALJ reasoned that such a limitation is not a “precise vocational restriction[],” but rather “a  
23 finding that [plaintiff] cannot work on a consistent basis.” AR 2060. But the ALJ’s  
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1 characterization of this limitation ignores that the examining doctors qualified their opinions:  
2 each stated that plaintiff would be severely or markedly limited in completing a normal  
3 workday/work week “without interruptions from psychologically based symptoms.” AR 2705,  
4 2732, 3039, 4399. With this qualification, Drs. Uhl, Gordin, and Walker’s opinions are not  
5 simply a conclusion that plaintiff cannot work but an opinion about plaintiff’s ability to work  
6 *without interruption*. These are conclusions regarding plaintiff’s functioning—not legal  
7 conclusions reserved for the Commissioner. Indeed, if the ALJ’s reasoning is accepted, a severe  
8 or marked rating in any functional area would be rejected as a conclusion reserved to the  
9 Commissioner. Accordingly, the ALJ’s finding that such a limitation is a legal conclusion  
10 reserved to the Commissioner is not supported by substantial evidence.

11 Finally, specifically regarding Dr. Walker’s 2019 opinion, the ALJ found that Dr.  
12 Walker’s opined marked limitations were not consistent with plaintiff’s “generally normal” MSE  
13 findings during that examination or with the record as a whole. AR 2061. However, as  
14 discussed above, Dr. Walker’s 2019 evaluation included MSE findings that plaintiff’s mood and  
15 affect were anxious and depressed, and that plaintiff exhibited abnormal memory and  
16 concentration due to high level anxiety and psychosis. *See* AR 4400–4401. It appears that the  
17 ALJ mischaracterized these objective findings, which tend to support Dr. Walker’s opinion that  
18 plaintiff would have a number of marked functional limitations. Further, the ALJ’s general  
19 finding as to inconsistencies with overall record is too vague a finding that is insufficiently  
20 specific to justify rejecting Dr. Walker’s 2019 opinion. *See Embrey*, 849 F.2d at 421–22.  
21 Accordingly, the ALJ’s conclusion that Dr. Walker’s 2019 opinion is inconsistent with MSE  
22 findings and the overall record is not supported by substantial evidence.

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1        In sum, the ALJ erred because he failed to provide a specific and legitimate reason  
 2 supported by substantial evidence to discount Drs. Uhl, Gordin, and Walker's opinions. *See*  
 3 *Lester*, 81 F.3d at 830–31. The Court further concludes that the error was not harmless because  
 4 had the ALJ fully credited these doctors' opinions, the residual functional capacity ("RFC")  
 5 would have included greater limitations. *See Marsh v. Colvin*, 792 F.3d 1170, 1173 (9th Cir.  
 6 2015) (quoting *Stout v. Cmm'r*, 454 F.3d 1050, 1055–56 (9th Cir. 2006)) ("a reviewing court  
 7 cannot consider [an] error harmless unless it can confidently conclude that no reasonable ALJ,  
 8 when fully crediting the testimony, could have reached a different disability determination."").

9              **II. Remaining Issues**

10          Plaintiff also argues that the ALJ erred in evaluating plaintiff's symptom testimony and  
 11 other medical opinion evidence. Because this case may be resolved without considering the  
 12 ALJ's assessment of this evidence, the Court declines to address these issues.

13              **III. Remand For Award of Benefits**

14          Plaintiff asks the Court to remand this case for an award of benefits. *See* Dkt. 16, at 25;  
 15 Dkt. 19, at 5–7. "[W]here the [ALJ] fails to provide adequate reasons for rejecting the opinion of  
 16 a treating or examining physician, we credit that 'opinion as a matter of law.'" *Harman v. Apfel*,  
 17 211 F.3d 1172, 1178 (9th Cir. 2000) (quoting *Lester*, 81 F.3d at 834). The Ninth Circuit has  
 18 developed a three-step analysis for determining when evidence should be credited as true and  
 19 when a remand for a direct award of benefits is appropriate. Such remand is generally proper  
 20 only where:

21              (1) the record has been fully developed and further administrative proceedings  
 22 would serve no useful purpose; (2) the ALJ has failed to provide legally sufficient  
 23 reasons for rejecting evidence, whether claimant testimony or medical opinion; and  
 24 (3) if the improperly discredited evidence were credited as true, the ALJ would be  
 required to find the claimant disabled on remand.

1     *Trevizo v. Berryhill*, 871 F.3d 664, 682–83 (9th Cir. 2017) (quoting *Garrison v. Colvin*, 759 F.3d  
 2     995, 1020 (9th Cir. 2014)). Where an ALJ makes a legal error, but the record is uncertain and  
 3     ambiguous, the proper approach is to remand the case for further proceedings. *Treichler v.*  
 4     *Comm'r of Soc. Sec. Admin.*, 775 F.3d 1090, 1105 (9th Cir. 2014). However, where there is no  
 5     serious doubt based on evaluation of the record as a whole that the ALJ would be required to find  
 6     plaintiff disabled, remand for award of benefits is proper. *See Trevizo*, 871 F.3d at 683.

7                 Here, the record has been fully developed and further administrative proceedings would  
 8     serve no useful purpose. Considering the longitudinal record of the doctors' evaluations from  
 9     2015 to 2019, the overall evidence of record supporting the doctors' opinions, and the proper  
 10    deference and weight given to an examining physician's opinion (*see supra*, Section I), any  
 11    further administrative proceeding would not be helpful in reevaluating any inconsistencies in the  
 12    State agency reviewing doctors' opinions. *See AR 2212–14, 2230–32; Holohan v. Massanari*,  
 13    246 F.3d 1195, 1211 (9th Cir. 2001); *Lester*, 81 F.3d at 830–31. The State agency reviewing  
 14    doctors reviewed only a limited snapshot of plaintiff's medical records up to 2016. *See AR*  
 15    2212–14, 2230–32. Further, every other treating and examining doctor of record opined that  
 16    plaintiff would be severely and/or markedly impaired in her abilities to sustain work activities,  
 17    including her abilities to communicate effectively and perform in a workplace setting, to adapt to  
 18    changes in the workplace, and to complete a normal workday and workweek without  
 19    interruptions due to symptoms. *See AR 957, 848, 866, 878–79, 1055–56, 1133, 2937–40, 2990–*  
 20    91, 2994–95, 5162–63.

21                 If Drs. Uhl, Gordin, and Walker's opinions were credited as true—particularly the  
 22     opinions that plaintiff would be severely or markedly limited in her ability to complete a normal  
 23     workday and workweek without interruptions from her symptoms—the ALJ would be required  
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1 to find plaintiff disabled on remand. *See* AR 2705, 2732, 3039, 4398–99; *Revels v. Berryhill*,  
 2 874 F.3d 648, 665 (9th Cir. 2017) (“Because the VE testified that a [plaintiff] with the physical  
 3 limitations outlined in [a treating doctor]’s medical opinion would be unable to do any full-time  
 4 work, the [treating doctor]’s medical opinion *alone* establishes that [the plaintiff] is entitled to  
 5 benefits.” (citation omitted)).

6 Both the ALJ and plaintiff’s counsel questioned the vocational expert (“VE”) at multiple  
 7 hearings regarding whether plaintiff would be competitively employable if she was off task more  
 8 than 20% of the workday and had productivity deficits. *See* AR 82–83, 2170. The VE  
 9 concluded that in such an instance a person would not be able to maintain competitive  
 10 employment. *See id.*

11 The Court notes that there are discrepancies between Drs. Uhl, Gordin, and Walker’s  
 12 opined marked to severe limitations. *Compare, e.g.*, AR 2732 (opining a severe limitation in  
 13 plaintiff’s ability to complete a normal workday and workweek without interruption from  
 14 symptoms) *with* AR 2705, 3039, 4399 (opining a marked limitation regarding the same).  
 15 However, in this case, the differing level of severity of the opined limitations does not create a  
 16 conflict in the overall record or cast serious doubt that plaintiff is disabled. *See Trevizo*, 871  
 17 F.3d at 683. Even crediting the severe limitations as marked, the ALJ would still be required to  
 18 find plaintiff disabled on remand based on the VE’s testimony. *See* AR 82–83, 2170.

19 Therefore, crediting the DSHS examining physicians’ opinions as true, there is no serious  
 20 question regarding plaintiff’s lack of employability, and remand for an award of benefits is the  
 21 appropriate remedy.

## CONCLUSION

Based on these reasons and the relevant record, the Court **ORDERS** that this matter be **REVERSED** and **REMANDED** for an award of benefits.

**JUDGMENT** should be for PLAINTIFF and the case should be closed.

Dated this 7th day of January, 2022.

  
J. Richard Creatura  
Chief United States Magistrate Judge